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CENTRAL INTELLIGENCE AGENCY

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**TO: Mr. Pat O'Donnell
The White House**

Per our telecon, here is a short piece
for Tom Korologos to use in his discussion
with Senator Pastore.

STATINTL !


Assistant Legislative Counsel

COURT REVIEW OF RESTRICTED DATA

Under the amendments to the Freedom of Information Act proposed by S. 2543 any person, indeed even a KGB agent, can seek a court review de novo of any Restricted Data for a court determination as to public disclosure should the Atomic Energy Commission refuse on the grounds of security.

Section (B) ii of the bill provides that in security matters the court review is to be conducted by the court only if it is unable to resolve the matter on the basis of affidavits. If the agency head has submitted an affidavit that he personally received the material and judged it to require protection the court is to sustain the Government unless it finds the withholding was without reasonable basis under the criteria exercised.

If Section (B) ii is struck the court can exercise its own criteria and judgment as to the sufficiency of the Atomic Energy Commission's argument to protect Restricted Data. Absent a presumption in its favor, the burden would rest fully with the AEC to prove its case for nondisclosure. This evidentiary burden could require the submission in court of Restricted Data beyond that in question, further broadening the exposure of such sensitive information.